

# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FIL	ING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,309	09/720,309 04/09/2001		Roger Howard Meek	A0008/7004	3449
22832	7590	03/28/2003			
		OCKHART LLP	EXAMINER		
75 STATE S' →BOSTON, M		-1808	DESANTO, MATTHEW F		
				ART UNIT	PAPER NUMBER
				3763	101
				DATE MAILED: 03/28/2003	10

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application Al	Λ.J.
	Application No.	Applicant(s)
Office Action Summary	09/720,309	MEER ET AL.
Office Action Summary	Examiner	Art Unit
	Matthew F DeSanto	3763
The MAILING DATE of this communication ap	pears on the cover sheet w	vith the correspondence address
A SHORTENED STATUTORY PERIOD FOR REPL THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a rep. If NO period for reply is specified above, the maximum statutory period.  - Failure to reply within the set or extended period for reply will, by statut.  - Any reply received by the Office later than three months after the mailir earned patent term adjustment. See 37 CFR 1.704(b).  Status	136(a). In no event, however, may a ly within the statutory minimum of thi will apply and will expire SIX (6) MO e, cause the application to become A	reply be timely filed  rty (30) days will be considered timely.  NTHS from the mailing date of this communication.  BANDONED (35 U.S.C. § 133).
1) Responsive to communication(s) filed on <u>02</u>	January 2003	
	his action is non-final.	
3) Since this application is in condition for allow		atters, prosecution as to the merits is
closed in accordance with the practice under		
Disposition of Claims		
4) Claim(s) <u>1-43</u> is/are pending in the applicatio		*Acceptor
4a) Of the above claim(s) <u>9-15,30,34 and 39</u> is	s/are withdrawn from cons	ideration.
5) Claim(s) is/are allowed.		
6) Claim(s) <u>1-8,16-29,31-33,35-38 and 40-43</u> is/	аге гејестеа.	
7) Claim(s) is/are objected to.		
8) Claim(s) are subject to restriction and/o	or election requirement.	
9)☐ The specification is objected to by the Examin	er.	
10) The drawing(s) filed on is/are: a) acce		
Applicant may not request that any objection to the	-, ,	` '
11) The proposed drawing correction filed on		disapproved by the Examiner.
If approved, corrected drawings are required in re	•	
12) ☐ The oath or declaration is objected to by the E	xaminer.	
Priority under 35 U.S.C. §§ 119 and 120		
13) Acknowledgment is made of a claim for foreig	in priority under 35 U.S.C.	§ 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:		
1. Certified copies of the priority documen		
2. Certified copies of the priority documen		
<ul> <li>3. Copies of the certified copies of the prical community of the prical copies of the prical copies.</li> <li>* See the attached detailed Office action for a list</li> </ul>	ureau (PCT Rule 17.2(a)).	•
14) Acknowledgment is made of a claim for domest	tic priority under 35 U.S.C	. § 119(e) (to a provisional application).
<ul> <li>a)  The translation of the foreign language pr</li> <li>15)  Acknowledgment is made of a claim for domes</li> </ul>	• •	
Attachment(s)		
<ol> <li>Notice of References Cited (PTO-892)</li> <li>Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2</li> </ol>	5) Notice of	Summary (PTO-413) Paper No(s) Informal Patent Application (PTO-152)
U.S. Patent and Trademark Office PTO-326 (Rev. 04-01) Office A	action Summary	Part of Paper No. 12

Application/Control Number: 09/720,309

Art Unit: 3763

#### **DETAILED ACTION**

#### Election/Restrictions

- 1. Applicant's election of Group I in Paper No. 11 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
- 2. Claims 9-15, 30, 34, 39, are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 11.

## Claim Rejections - 35 USC § 112

- The following is a quotation of the second paragraph of 35 U.S.C. 112:
   The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
- 4. Claims 17-21, 23-26, and 31 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- 5. Claims 17, 18,19, 20, 21, recite the limitation "stem." There is insufficient antecedent basis for this limitation in the claim.
- 6. Claims 23, recites the limitation "cylindrical portion." There is insufficient antecedent basis for this limitation in the claim.
- 7. Claims 24, 25, 26, 31 recite the limitation "tapering portion." There is insufficient antecedent basis for this limitation in the claim.

Page 3

Application/Control Number: 09/720,309

Art Unit: 3763

8. The examiner finds a lack of antecedent basis for many of the structural limitations drawn to the claims due to the amendments made. The examiner suggests that each structural limitation should be check to make sure there is proper antecedent basis.

#### Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 10. Claims 1 8,16-29, 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (USPN 3675658).
- 11. Taylor discloses a medical device with a proximal end and a distal end, an elastomeric bulb at the proximal end for storing fluid, a fluid acceptor, wherein the acceptor is a balloon, and control device, wherein the control device comprises a plug and wherein the plug comprises a stem, a skirt and an annular part. (Figures 2-6, and entire reference).
- 12. Claim 1, 6, 7, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosecrans (USPN 3275001).
- 13. Rosecrans discloses a medical device with a proximal end and a distal end, an elastomeric bulb at the proximal end for storing fluid, a fluid acceptor, wherein the

Application/Control Number: 09/720,309

Art Unit: 3763

acceptor is a balloon, and control device, wherein the control device comprises a plug. (Figure 1, 3, 5 and entire reference).

## Claim Rejections - 35 USC § 103

- 14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 15. Claims 1-8, 16-29, 31-33, 35-38 and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor as applied to the claims above, and further in view of Ericson (USPN 3602226).

Taylor discloses the invention except for using a sleeve, which is made of a shrink-wrap material.

Ericson discloses using a sleeve made of a shrink-wrap material to prevent loss of the inflation fluid from the reservoir and to insure adequate inflation of the retaining means by the inflating fluid upon release of said inflating fluid from the reservoir.

(Figures 2-5 and entire reference)

At the time of the invention it would have been obvious for one of ordinary skill in the art to combine Taylor with Ericson because Ericson disclosed the use of a shrinkwrap material to prevent fluid from escaping the reservoir.

Therefore it would have been obvious to combine Taylor with Ericson to obtain the invention as specified in claims 1-8, 16-29, 31-33, 35-38 and 41-43.

Application/Control Number: 09/720,309

Art Unit: 3763

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9302 for regular communications and 1-703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-0858.

Matth

Matthew DeSanto Art unit 3763 March 24, 2003 BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700